

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

PATRICK WAYNE DULA,)	
)	
Petitioner,)	
)	1:11CV373
v.)	1:09CR35-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

This matter is before this court for review of the Recommendation ("Recommendation") filed on January 31, 2012, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 47.) In the Recommendation, the Magistrate Judge recommends that Petitioner's motion to vacate, set aside, or correct sentence (Doc. 35) be denied and that this action be dismissed. The Recommendation was served on the parties to this action on February 1, 2012. Petitioner filed timely objections (Doc. 49) to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 47) is **ADOPTED**. **IT IS FURTHER ORDERED** that Petitioner's motion to vacate, set aside, or correct sentence (Doc. 35) is **DENIED** and that this action is dismissed with prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 29th day of March, 2013.


United States District Judge